

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

MARGARET I. ROBINSON,

Plaintiff,

v. Civil Action No. 2:12-05672

RES-CARE, INC.,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is the defendant's motion to dismiss the amended complaint, filed November 15, 2012.

This action was previously referred to Mary E. Stanley, United States Magistrate Judge, who submitted her Proposed Findings and Recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) on December 27, 2012. She recommends granting the defendant's motion and dismissing the plaintiff's six defamation claims, finding five of the claims barred by the applicable statute of limitations and the sixth premised on statements protected by an absolute privilege.

The plaintiff did not object to the Proposed Findings and Recommendation within the prescribed period, which expired on January 14, 2013, but eventually filed a letter-form

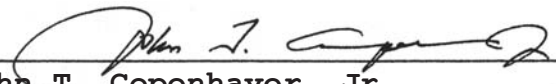
statement on January 29, 2013. She alleges that the court did not mail her a copy of the Proposed Findings and Recommendation until January 14, 2013, preventing her from timely objecting. She further states that she "would have responded to this had the court mailed it out on time," but appears to consider objections precluded by the passing of the January 14, 2013 deadline. No evidence establishing the date on which she claims the court mailed to her the Proposed Findings and Recommendation or the date on which that document was delivered to the plaintiff's post office box accompanies her written statement.

Given that this matter remains pending until the court enters final judgment, and given the plaintiff's contention that a mailing delay deprived her of sufficient time to object, the court grants the plaintiff until April 26, 2013 to file herein proof of late mailing. Specifically, the plaintiff must provide evidence establishing either the date on which the documents were mailed - such as the postmarked envelope in which the proposed findings were mailed to her - or the date on which the magistrate judge's Proposed Findings and Recommendation was delivered to her post office box. If the plaintiff establishes the late mailing claimed by her, the court anticipates extending the time in which she may file objections.

Should the plaintiff not wish to object to the magistrate judge's Proposed Findings and Recommendations, she may so advise the court in writing or do nothing.

The Clerk is directed to forward copies of this written opinion and order to the pro se plaintiff, all counsel of record, and the United States Magistrate Judge.

DATED: April 10, 2013



John T. Copenhaver, Jr.
United States District Judge